

KENNER LAW FIRM, P.C.
David E. Kenner, SBN 41425
Brett A. Greenfield, SBN 217343
16000 Ventura Boulevard, PH 1208
Encino, CA 91364
818 995 1195
818 475 5369 - fax

WADE, KELLY & SULLIVAN
733 W. 4th Avenue, Suite 200
Anchorage, Alaska 99501
(907) 561-7743
(907) 562-8977 - fax

Attorney for Defendant Josef F. Boehm

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF ALASKA

| | | |
|---------------------------|---|-------------------------------|
| Sally C. Purser, |) | |
| |) | RESPONSE TO THE OPPOSITION OF |
| Plaintiff, |) | BOEHM'S REQUEST TO FILE THIRD |
| |) | PARTY COMPLAINTS |
| v. |) | |
| |) | |
| Josef F. Boehm, Allen K. |) | |
| Bolling, and Bambi Tyree, |) | |
| |) | |
| Defendants. |) | |
| |) | |
| |) | |
| |) | CASE NO.: A05-0085 (JKS) |
| |) | |

I. THE CONCLUSORY STATEMENTS OF SALLEY PURSER THAT SHE WILL
SUFFER PREJUDICE ARE NOT SUFFICIENT TO OVERCOME BOEHM'S
REQUEST TO FILE-THIRD PARTY COMPLAINTS.

Salley Purser, by and through her counsel Darryl Jones,
opposed Defendant Boehm's request to file third party complaints.
However, Jones does not provide this court with a single reason why
Salley Purser will be prejudiced. Instead, Jones personally
attacked defendant's counsel in order to avoid the real argument.

1 Jones is correct when he states that the court should consider
2 "(1) whether the movant deliberately delayed or was derelict in
3 filing the motion; (2) whether impleading would delay or unduly
4 complicate the trial; (3) whether impleading would prejudice the
5 third-party defendant; and (4) whether the proposed third-party
6 complaint states a claim upon which relief can be granted."
7 *Plaintiff's Opposition*, Page 3. However, Jones fails to analyze
8 any of the factors and merely concludes that his client's prejudice
9 outweighs Boehm's need to add third-party defendants.

10 Boehm's counsel filed the third party complaints as soon as
11 they were able to complete additional needed discovery. The third-
12 party complaints will not cause undue delay or complication because
13 the people named in the third-party complaint must be deposed and
14 issued appropriate discovery requests even if they are not named as
15 defendants in this case. Finally, there are no facts indicating
16 that there would be any undue prejudice to the named third-party
17 defendants.

18 **II. RECENTLY DISCOVERED INFORMATION HAS MADE IT APPROPRIATE TO**
19 **FILE THIRD-PARTY COMPLAINTS.**

20 Boehm's counsel has only recently been able to take the
21 depositions of Salley Purser, Erin Axt, and Deborah Axt. These
22 depositions revealed that others are responsible for the alleged
23 damages of Salley Purser. It is true that these depositions should
24 have been completed towards the beginning of the case, but Boehm's
25 first attorneys did little in the way of trial preparation and
26

1 discovery. Boehm replaced those attorneys and retained new
2 counsel.

3 As stated on numerous occasions, Boehm's current counsel has
4 tried diligently to catch up and prepare this case for trial. As
5 more discovery was acquired it became clear that others were
6 responsible for Salley Purser's alleged damages. Indeed, it was
7 Salley Purser herself that told Boehm's counsel that she had been
8 abused sexually, mentally and physically by others in her life.
9 She told counsel that she was given crack cocaine by her mother,
10 Kathleen Purser. She told counsel that she had sex with multiple
11 men at very young ages. In a large part, it was plaintiff's own
12 testimony that made it clear that others were responsible for her
13 alleged damages.

14 **III. CONCLUSION**

15 Defendant Boehm has provided this court with a reasonable
16 explanation for his delay in filing the third party complaints and
17 has shown that there will be little prejudice to the plaintiff.
18

19 Defendant Boehm respectfully requests that this court allow
20 the defendant to file third-party complaints.

21 DATED this 11th day of May, 2007 at Encino, California.
22
23

24 KENNER LAW FIRM

25
26 By: _____/s/_____
27 David E. Kenner
28

California 41425
16000 Ventura Blvd.
Penthouse 1208
Encino, California 91436

By: _____/s/_____

Brett A. Greenfield
California 217343
16000 Ventura Blvd.
Penthouse 1208
Encino, California 91436